

EXHIBIT 4

SETTLEMENT AGREEMENT

WHEREAS, Natural Resources Defense Council, Environmental Defense, Montana Environmental Information Center, American Lung Association of Metropolitan Chicago, Ohio Environmental Council, Valley Watch, Inc., and Sierra Club (collectively "Petitioners") have filed petitions for judicial review of a December 13, 2005 document prepared by the Environmental Protection Agency ("EPA" or "Agency") concerning "Best Available Control Technology Requirements for Proposed Coal-Fired Power Plant Projects" ("December 13, 2005 document"). Natural Resources Defense Council v. EPA, No. 06-1059 (consolidated with Nos. 06-1062 and 06-1063) (D.C. Cir.);

WHEREAS, the December 13, 2005 document addresses matters of broad interest to the states, petitioners and other persons in determining "best available control technology" (BACT) and "lowest achievable emission rate" (LAER) in pre-construction review air quality permits issued under the federal Clean Air Act's Prevention of Significant Deterioration of Air Quality and Nonattainment New Source Review programs;

WHEREAS, the December 13, 2005 document is in the form of a letter from the Director of EPA's Office of Air Quality Planning and Standards to the President of E3 Consulting, LLC;

WHEREAS, the December 13, 2005 document was distributed to all EPA regional offices and posted on EPA's website;

WHEREAS, EPA did not promulgate the December 13, 2005 document as a regulation under section 307(d) of the Clean Air Act;

WHEREAS, EPA did not provide public notice or opportunity for public comment on the December 13, 2005 document before it was prepared;

WHEREAS, the BACT or LAER determination on a draft pre-construction review permit is subject to public notice and comment as part of the proposed basis for issuing a pre-construction review permit;

WHEREAS, EPA has informed Petitioners and other interested parties by letter dated September 12, 2006, that the Agency intends to establish a process that will foster a dialog among a balanced array of interested stakeholder groups on the deployment of advanced coal technology and result in policy recommendations to EPA on this topic;

WHEREAS, it is in the interest of the public, the parties and judicial economy to resolve the issues in this case without further litigation;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. PARTIES

The parties to this Settlement Agreement are the Petitioners and EPA.

II. TERMS OF THE AGREEMENT

1. EPA agrees and stipulates that the December 13, 2005 document is not final agency action and creates no rights, duties, obligations, nor any other legally binding effects on EPA, the states, tribes, any regulated entity or any person.

2. Not later than 10 days from the date this Agreement is executed by the Parties, the Parties will jointly notify the Court that they have provisionally reached this Settlement Agreement, will lodge the Settlement Agreement with the Court, and request that the Court hold briefing in abeyance in the above-captioned consolidated cases pending completion of the process under section 113(g) of the Clean Air Act and implementation of the Settlement Agreement.